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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,741	11/28/2001	Thomas Blattner	A03195	8342

7590

03/18/2004

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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 03/18/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,741

Applicant(s)

BLATTNER ET AL.

Examiner

Mark T Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3722

DETAILED ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9302 (Official) and (703)872-9303 (for After Finals). This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claim 1 has been amended to overcome the previous 112 rejection. Claim 9 has been amended for further examination.

Art Unit: 3722

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 7 are finally rejected under 35 U.S.C. 102(b) as being anticipated by November (2,555,290).

November discloses in Fig. 1-6, a process for producing brochures comprising: inserting a binding element formed of a single wire element into perforations along an edge of sheet material that extends across the width of the sheet stack (Col. 3, lines 35-59); and forming the binding element before inserting (Col. 2, lines 6-42); tailoring the binding element to complement the perforations (Col. 2, lines 43-55 and Col. 3, lines 1-7); forming a series of loops (11 in Col. 2, lines 19 and 20) and crimps (6 in Col. 2, lines 23-25).

Art Unit: 3722

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over November in view of Seaborn et al (4,047,544).

November discloses a process for producing brochures comprising all the elements as claimed in Claim 1, and as set forth above. However, November does not disclose: forming a plurality of crimps, loop by loop with a single bending die.

Seaborn et al discloses in Fig. 8-11, a process of forming a plurality of crimps, loop by loop, with a single die (32, which is on wire assembly 60 as seen in Fig. 8-11).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify November's brochure producing process to include a process for forming crimps with a single die as taught by Seaborn et al for the purpose of providing a means in which to create the loop and crimp at the same time.

Art Unit: 3722

4. Claims 8 and 9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over November in view of Pigna et al (3,854,158).

November discloses a process for producing brochures comprising all the elements as claimed in Claim 1, and as set forth above. However, November does not disclose: determining at least one production parameter with an electronic device, wherein the parameter consist of brochure thickness, wire diameter, wire length, or perforation spacing.

Pigna et al discloses in Fig. 1 and in Col. 3, lines 1-21, wherein an electronic sensing device (4) counts the wire loops (2) passing through a feeder means, and when the programmed loop count is reached, a cutting means (6) separates the looped wire from the remainder (3) of the strip, whereby the looped wire length need for the binding is determined.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify November's brochure producing process to include an electronic device to determine the appropriate wire length need as taught by Pigna et al for the purpose of avoiding the process of purchasing previously cut binder wire elements which can give rise to high costs.

Art Unit: 3722

Allowable Subject Matter

5. Claims 10-20 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record discloses or fairly teaches a process for producing brochures comprising determining a thickness of a brochure to be produced and storing the thickness in an electronic device; producing a binding element corresponding to the thickness; feeding the wire from a spool; bending wire into a flat, multiple loop binding element; cutting binding element and conveying it to an insertion device; supplying sheet like material to the insertion device, wherein the material has perforations; inserting the binding element into the perforations; bending the binding element into a ring-like binding; and including all of the other limitations in the independent claims.

Response to Arguments

7. Applicant's arguments filed on January 12, 2004 have been fully considered but they are not persuasive.

Art Unit: 3722

In regards to applicant's argument that the November "contemplates forming the binder well in advance of insertion into the book", and not "immediately before said inserting", the examiner submits that the term "immediately" is a relative term, wherein in a manufacturing process, one manufacturer may form the "binder" element in a "Just-in-Time" processing (wherein the element is formed in sequence with its demand). During this process, a manufacturer may need a particular element (binder) to complete his pre-determined numbered product (in this case, the brochures). A second manufacturer (who forms the binder element) knows of the pre-determined number, and will form the element (binder) just as it is needed. Since applicant has not disclosed specific details of what "immediately" is and the time frame, the examiner has given the term its broadest interpretation to mean either a few minutes before or possibly a day prior to the formation of the brochure. Therefore, the examiner's rejections have been maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3722

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (703)305-0189. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (703) 308-2159. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.



MTH

March 16, 2004



A. L. WELLINGTON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700